IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1134 (S/S) of 2005

1. Satish Kumar, son of late Sri Radhey Chaudhary, resident of Regimental No. 040210076, CT/ GD (Recruit) Village – Beur, Post Office – Beur Vaya Ansibad, District – Patna, State – Bihar.
2. Prabhu Kumar, son of Sri Dular Chandra Yadav, Regimental No. 040210156, CT/ GD (Recruit) Village – Nillkothi, Post Office – Bahoi, Police Station – Haspura, District – Orangabad, State – Bihar.
3. Sanjay Kumar, son of Sri Ram Sunderram, resident of Regimental No. 040210477, CT/ GD (Recruit) Village – Poto Post – Mahad Ganj, District – Palamau, State – Jharkhand.
4. Santosh Kumar Tiwari, son of Sri Shivnath Tiwari, Regimental No. 040210111, CT/ GD (Recruit) Village – Chanaur, Post Charghat, Police Station – Bihyea, District – Bhojpur, State – Bihar.
5. Manuj Kumar, son of Sri Ram Kewal Sahu, resident of Regimental No. 040210495, CT/ GD (Recruit) Village – Sons, Post Office – sons, Police Station – Chanho, District – Ranchi, State – Jharkhand.

……Petitioners.

V e r s u s.

1. Government of India, through Defence Secretary.
2. Director General of Indo Tibetan Border Police, CGO, Complex Lodhi Road, New Delhi.
3. Commanding Officer, 21st Battalion, ITBP, Jagerdewal, Pithoragarh, District – Pithoragarh.

……Respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri Arun Mohan Saklani, learned counsel for the petitioners and Sri Vikas Pandey, learned standing counsel for Union of India, who has accepted notices on behalf of respondents.

Learned counsel for both the parties are agree to decide the present writ petition at its admission stage itself.

By means of this writ petition, the petitioners have prayed to issue a writ in the nature of Mandamus commanding the respondent no. 2 to decide the appeals of the petitioners filed under Rule 28 of the Indo Tibetan Border Police Force Rules 1944.

The submission of the petitioners is that they were selected on the post of Constables in Indo Tibetan Border Police after qualifying the physical test they were permitted to join 21st Battalion, Pithoragarh. Accordingly, the petitioners joined 21st Battalion of Indo Tibetan Border Police. Thereafter, they were sent for training to Basic Training Centre Bhanu, Ramgarh, Panchkula, Haryana, Vide order dated 11.07.2004 petitioners were sent back to 21st Battalion, Pithoragarh and were not permitted to complete the training on the ground that they are not taking interest in the training and also could not qualify the written test of the field craft and law. It was stated by the Incharge, Training Centre that the petitioners were warned number of times but they have not improved their performances, consequently, they are being sent back to 21st Battalion, Pithoragarh. In pursuance to the aforesaid order of Incharge, Training Centre the Commandant, 21st Battalion, Indo Tibetan Border Police, Jagerdewal, Pithoragarh

passed the termination order terminating the services of petitioners on 29.12.2004. Petitioners have preferred appeals dated 21.03.2005 and 12.01.2005 before respondent no. 2 i.e. Director General, Indo Tibetan Border Police against the termination order dated 29.12.2004 passed by the Commandant, 21st Battalion, Indo Tibetan Border Police, Jagerdewal, Pithoragarh. The memo of appeals dated 21.03.2005 and 12.01.2005, which are annexed as Annexure nos. 3 and 4 to the writ petition. The appeals are pending before respondent no. 2.

Learned counsel for the petitioners has confined his prayer that respondent no. 2 i.e. Director General, Indo Tibetan Border Police, may be directed to decide the appeals of the petitioners at the earliest.

The prayer is innocuous. Respondent no. 2 i.e. Director General, Indo Tibetan Border Police is directed to decide the appeals dated 23.03.2005 and 12.01.2005 of the petitioners (Annexure Nos. 3 and 4 to the writ petition) within a period of eight weeks from the date of production of certified copy of this order.

With this direction the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

August 11, 2005
SKSharma